

## §2.67

## 37 CFR Ch. I (7–1–05 Edition)

(1) Within two months of the mailing date of the notice of abandonment; or

(2) Within two months of actual knowledge of the abandonment, if the applicant did not receive the notice of abandonment, and the applicant was diligent in checking the status of the application every six months in accordance with §2.146(i).

(b) The requirements for filing a petition to revive an application abandoned because the applicant did not timely respond to an Office action are:

(1) The petition fee required by §2.6;

(2) A statement, signed by someone with firsthand knowledge of the facts, that the delay in filing the response on or before the due date was unintentional; and

(3) Unless the applicant alleges that it did not receive the Office action, the proposed response.

(c) The requirements for filing a petition to revive an application abandoned because the applicant did not timely respond to a notice of allowance are:

(1) The petition fee required by §2.6;

(2) A statement, signed by someone with firsthand knowledge of the facts, that the delay in filing the statement of use (or request for extension of time to file a statement of use) on or before the due date was unintentional;

(3) Unless the applicant alleges that it did not receive the notice of allowance and requests cancellation of the notice of allowance, the required fees for the number of requests for extensions of time to file a statement of use that the applicant should have filed under §2.89 if the application had never been abandoned;

(4) Unless the applicant alleges that it did not receive the notice of allowance and requests cancellation of the notice of allowance, either a statement of use under §2.88 or a request for an extension of time to file a statement of use under §2.89; and

(5) Unless a statement of use is filed with or before the petition, or the applicant alleges that it did not receive the notice of allowance and requests cancellation of the notice of allowance, the applicant must file any further requests for extensions of time to file a statement of use under §2.89 that be-

come due while the petition is pending, or file a statement of use under §2.88.

(d) In an application under section 1(b) of the Act, the Director will not grant the petition if this would permit the filing of a statement of use more than 36 months after the mailing date of the notice of allowance under section 13(b)(2) of the Act.

(e) The Director will grant the petition to revive if the applicant complies with the requirements listed above and establishes that the delay in responding was unintentional.

(f) If the Director denies a petition, the applicant may request reconsideration, if the applicant:

(1) Files the request within two months of the mailing date of the decision denying the petition; and

(2) Pays a second petition fee under §2.6.

[64 FR 48921, Sept. 8, 1999, as amended at 68 FR 55764, Sept. 26, 2003]

### §2.67 Suspension of action by the Patent and Trademark Office.

Action by the Patent and Trademark Office may be suspended for a reasonable time for good and sufficient cause. The fact that a proceeding is pending before the Patent and Trademark Office or a court which is relevant to the issue of registrability of the applicant's mark, or the fact that the basis for registration is, under the provisions of section 44(e) of the Act, registration of the mark in a foreign country and the foreign application is still pending, will be considered prima facie good and sufficient cause. An applicant's request for a suspension of action under this section filed within the 6-month response period (see §2.62) may be considered responsive to the previous Office action. The first suspension is within the discretion of the Examiner of Trademarks and any subsequent suspension must be approved by the Director.

[37 FR 3898, Feb. 24, 1972]

### §2.68 Express abandonment (withdrawal) of application.

An application may be expressly abandoned by filing in the Patent and Trademark Office a written statement of abandonment or withdrawal of the